

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISIDICIION

WRIT PETITION NO.9455 OF 2004

Peramasri V.Kukreja ...Petitioner

Vs.

Jyoti P.Balani and ors. ...Respondents

Mr.M.S.Lagu for Petitioner
Mr.A.C.Kothari for Respondent nos.1 and 2
Mr.A.H.Palekar AGP for Respondent no.6.

CORAM : B.H.MARLAPALLE, J.

DATE : JANUARY 28, 2005

P.C.:

1. Heard Mr.Lagu, the learned counsel for the petitioner who assails the judgment and order in appeal no.37 of 2003.

2. It was claimed by the petitioner that the respondent no.1 teacher had though joined on 13.6.1969, passed her D.Ed. examination in 1982 whereas, the petitioner came to be appointed as an Assistant Teacher on 4.6.1974 and passed the D.Ed examination in 1980. It was claimed that the seniority of assistant teachers in the primary schools must be decided on the basis of possessing D.Ed. qualification. In short, it was submitted that petitioner ought to be treated senior to the

respondent no.1. The learned counsel in this regard referred to two different decisions rendered by the Division Benches of this Court and submitted that the view taken in both the cases is contradictory, i.e. **(1) Rajhans Narayanrao Shahapure reported in 2003 (3) Mh.L.J. 206 and (2) Chintaman Ramaji Mahakalkar reported in 2003(2) of All MR 658.**

3. The submissions made by the learned counsel do not commend to me and both the judgments have to be read in the respective facts. In case of Chintaman (supra), this Court referred to the protection made available to the teachers appointed prior to 30.6.1972 and held that such teachers could be treated to be senior to those appointed after 30.6.1972 even if they have acquired the qualification of D.Ed. latter in time as compared to such teachers appointed subsequently. In para no.6, this Court has observed as under:

. "Primary school teachers recruited prior to 30.6.1972 and who are possessing the academic and training qualifications according to the rules in force, at the time of their appointment are exempted from S.S.C. and D.Ed. qualifications. Thus, who were recruited after 30.6.1972 and who do not possess the S.S.C. and training qualifications should acquire the same before June, 1985. Failure to acquire these qualifications before June 1985, shall make them liable for termination of their services".

4. The view taken by the School Tribunal in the impugned decision is in keeping with the law laid down by this Court in Chintaman's case and the same view, as noted earlier, does not differ or contradict with the view taken in Rajhans' case (supra) as the teachers appointed in Rajhans' case, were appointed after June, 1972 and after the M.E.P.S. Rules 1981 were brought into force.

5. Hence, there is no reason to cause interference with the impugned judgment and order in this petition under Article 227 of the Constitution of India.

6. Writ petition is rejected summarily.

[B.H.MARLAPALLE, J.]